

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/10/2003

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.7978 of 2003

K.Dhandapani .. Petitioner

-Vs-

1. The Superintending Engineer
Cuddalore Electricity Distribution
Circle, Tamilnadu Electricity Board
Cuddalore-1.

2. The Junior Engineer (Urban East)
Tamil Nadu Electricity Board
Chidambaram.

3. The Executive Engineer (O&M)
Tamil Nadu Electricity Board
Chidambaram.

4. The Assistant Executive Engineer
(Town), Tamil Nadu Electricity Board
Chidambaram. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for a writ of Declaration as stated therein.

For Petitioner : Mr.R.Gururaj

For Respondents : Mr.G.Vasudevan

:ORDER

The petitioner is a tenant with respect to the property, viz., No.99-100, Sri Venkateswara Complex, 2nd Floor, South Car street, Chidambaram, under one Ramalingam, the owner of the premises. Since the petitioner is running an institute in the name of "Amutham Computing Technology", based on the certificate issued by the Director of Industries, Government of Tamil Nadu, bearing Certificate No.180211106, dated 31.7.1996 certifying that he is entitled for the tariff concession, namely for tariff under category IIIA, he applied for the tariff concession under Category IIIA and accordingly, the petitioner was given the tariff concession under category IIIA, viz., at

Rs.1.70 per unit. However, the said tariff concession was withdrawn by the respondents based on certain audit objections and the tariff rate was changed from category IIIA to V and the petitioner was required to pay tariff at Rs.4.40 per unit and settle the arrears to the tune of Rs.43,960/- from December, 2000, by a communication dated 25.12.2000. Aggrieved by which, the petitioner filed W.P.No.912 of 2001 seeking to declare the conversion of tariff from category IIIA to V as unjust, and this Court, by order dated 28.1.2002, allowed the writ petition on the ground that the demand for a sum of Rs.43,960/- was bad for want of prior notice.

2. The petitioner, however, complaining that the tariff rate was not reconverted from category V to IIIA, the petitioner now seeks a writ of Declaration to (i) declare that the conversion of demand for electricity charges from Tariff IIIA to Tariff V in respect of S.C.No.212 /Umayal at 100, South car Street, Chidambaram, is arbitrary, ultra vires, illegal, null and

void and against principles of natural justice; and (ii) to direct the respondents to to reconvert the tariff from Tariff No.V to Tariff No.IIIA in respect of S.C.No.212/Umayal at 100, South car Street, Chidambaram.

3. According to Mr.G.Vasudevan, learned counsel appearing for the respondent/Board, as per Clause 25.01 of Terms and conditions of Tamil Nadu Electricity Board, the petitioner is not entitled to the change of tariff rate as long as the service connection stands in the name of the landlord, one Ramalingam. Clause 25.01 of the Terms and conditions of Tamil Nadu Electricity Board, reads as under:

"Clause 25.01 - A consumer can utilise a service connection given to him for a purpose different from the purpose for which he originally obtained the service connection, only if the same tariff is applicable to the new purpose also. If a different tariff is applicable to the new purpose, the consumer shall apply to the Board before changing the purpose and a Revised Test Report will be taken indicating the change in the Tariff."

4. I have given careful consideration to the submissions of both sides.

5. The short issue that arises in this writ petition is, who is the consumer of the electricity with reference to the service connection, viz., S.C.No.212/Umayal at 100, South car Street, Chidambaram, whether the petitioner (tenant) or the owner of the premises?

6. In this context, it is apt to refer Clause 2.01 (iii)(a) of the Terms and Conditions of Tamil Nadu Electricity Board, which defines a "Consumer" as under:-

"Clause 2.01 (iii)(a) - "Consumer" means any person who is supplied with electrical energy by the Board and includes any person whose installation is for time being connected for the purpose of receiving electrical energy with the lines/ equipments of the Board and also includes an intending consumer or a consumer whose service condition has been disconnected."

7. The definition of "Consumer", therefore, makes it clear that any

person who is supplied with electricity energy is a consumer, even though an argument was advanced on behalf of the respondent/Board that, in the instant case, the owner of the premises is the consumer and he alone is entitled for the change of the tariff and the petitioner, who is admittedly a tenant, is not entitled to apply for tariff change as long as the said service connection stands in the name of the owner of the premises.

8. I am unable to appreciate the same for the simple reason that the Terms and conditions of Tamil Nadu Electricity Board, itself makes it very clear that the consumer of the supply of electricity need not be the owner himself. A clear distinction can be drawn in this regard making a reference to Clause 6.03 of the Terms and conditions of Tamil Nadu Electricity Board, which reads as under:

"Clause 6.03 - If the owner is not available or he refuses to given consent letter, the intending consumer should produce proof of his being in lawful occupation of the premises and also execute an indemnity bond in the form prescribed by the Board, indemnifying the Board against any losses on account of disputes arising out of effecting service connection to the occupant."

9. A consumer, therefore, need not be the owner of the premises. In that view of the matter, the petitioner, in my considered opinion, is entitled to seek for reconversion of the tariff rate from category V to IIIA, if he is otherwise entitled to as per the concessions offered by the Government for running the tiny unit, viz., Amutham Computing Technology, in the impugned premises, as it cannot be disputed that even as per Clause 25.01 of the Terms and conditions of Tamil Nadu Electricity Board, the consumer is entitled to apply for reconversion of tariff rate based on the purpose for which the electricity is consumed.

10. The issue as to the reconversion of the tariff rate from category V to IIIA, at this stage, is pending consideration before the first respondent. If that be so, suffice it to direct the first respondent to pass appropriate orders with respect to the entitlement of the petitioner for the reconversion of tariff rate from V to IIIA, in the light of the observations made above, if the petitioner is otherwise entitled for such tariff concessions.

This writ petition is ordered accordingly. No costs. Consequently, W.P.M.P.No.10233 of 2003 is closed.

Index : Yes

Internet : Yes

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